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Aviation Accident Law (Book Review)

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in many respects the concavity and convexity of the single lens of social policy."

This essential interdependence of law and economics prompted his acquiring the cooperation of John V. Thornton, Chairman of the Economics Department of Albertus Magnus College and member of the Economics Faculty at Yale University. This was something *very new*, almost revolutionary in text book work. They together worked and collected something old, including a large number of the older English cases as indicative of the types of policy decisions during the primary formative period of our law. Something new, they added the groups of cases which exemplified both legal issues and socio-economic policy. Cases from many economic and political cultures, from mercantilism and *laissez-faire* through paternalism and socialism, and thus laying the foundation for a clear and correct understanding of the everchanging judicial process.

Borrowing from the Restatement of the Law, each chapter closes with "Problems." "Have you understood the principles we studied in this chapter?" Briefly the decision and citation are given. "If this problem is *not* as you understand the law, might I suggest further reference to the official reports." Just how could this type of student trained as he was, permit the statement to go unchallenged? For example, on page 80 at the close of Chapter 2, problem 7 states:

"A claims that B maliciously and without probable cause gave false information to immigration officials which caused them to deport A for alleged violations of the immigration laws.

Held: The proceedings are not judicial and no cause of action for a *malicious prosecution* is stated.

(*Al Raschid v. News Syndicate Co.*, 265 N. Y. 1, 191 N. E. 713 [1934].)"

Hundreds of similar problems are included throughout the book. No teacher would doubt the method is effective in arousing the inquiring mind.

Something blue? Oh! Yes. We are grateful that the book is a post war product. The paper is excellent, the type is clear and distinct—and the color of the cover is—a beautiful blue.

W. TAPLEY.*

AVIATION ACCIDENT LAW. By Charles S. Rhyne. Columbia Law Book Co.: Washington, 1947. Pp. 315, index.

Here is a book which seeks to fill a need long felt by students and practitioners of aviation law. It is the initial treatise synthesizing all reported decisions on aircraft accident law into a logical and compact framework. The

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author of the work comes well equipped to this task inasmuch as he is the author of the well-known *Civil Aeronautics Act Annotated* (1939) and *Airports and the Courts* (1944), and is chairman of the Aeronautical Law Committee of the American Bar Association.

The book investigates aeronautical accident law from both the tort and insurance points of view and concludes with a consideration of the problems involved in international air transportation. The tort phases include the status of aircraft as common and private carriers, the types of accidents most frequently encountered and the liability rules incident thereto, and the liability of particular classes such as bailees, manufacturers, repairers, and vendors of aircraft. Other specific problems covered are defenses, effects of violation of ordinances, statutes, and regulations, and the doctrine of *res ipsa loquitur*. In addition to those more conventional divisions, the work contains a chapter on Workmen's Compensation as related to aircraft accidents, as well as an interesting discussion of international problems involved in aviation-accident law. To supplement this latter discussion an appendix sets forth the "Warsaw Convention" which was framed in 1929 to provide liability rules for aviation accidents involving injury to passengers, baggage or goods in international air transportation and which has since been adopted by most of the major nations of the world.

The classification and legal analysis of the cases discussed is eminently satisfactory. With the aid of a good index and a detailed table of contents, there is little difficulty in putting one's finger at once upon the cases in point in any specific problem. Especially noteworthy in this respect are the chapters on Workmen's Compensation and Insurance and Aviation Accidents. The chapter on International Aviation Accidents is also particularly well organized and inclusive in its discussion, and, supplemented as it is by the appendix on the Warsaw Convention, it provides a convenient guide to the legal questions involved. Citations to law review and other articles are competently done, and provide a valuable key to those seeking more detailed information on specific phases.

The author states his chief purpose to be a collection of "all the reported court decisions concerning claims which have arisen out of accidents in which aircraft have been involved . . . in one place so that it may be readily available for lawyers who must inquire into liabilities arising out of aviation accidents." This purpose seems to have been adequately fulfilled, and the legal principles enunciated by the decisions are woven together with an effective, easily read style. It is somewhat to be regretted, however, that the brevity of the work (less than two hundred fifty pages of text matter) and the large number of cases included has made it necessary to limit the policy analysis of the problems to a rather cursory treatment. At times one gets the impression that a mere recital of digests of cases is being made with strong emphasis on "legal principles" but minimum analysis of policy considerations. Very little discussion of the role of aviation law as a device for the best distribution of losses inevitably attendant upon this newest mode of transportation appears, and, although attention is frequently called to the attempts of courts to analogize rules of aircraft liability to those of surface travel, little effort is expended in tracing down the differences in policy values which may exist as between the two modes. While this is perhaps not truly a legitimate criticism of Mr

Rhyne's work, inasmuch as he did not set out to analyze policy as much as synthesize principle, still it is to be regretted that his excellent technique and varied experience were not applied also to the policy considerations. Especially in such a growing field, it is imperative that policy values be kept in mind, lest the trend of decision stagnate rather than stimulate the advance of legal doctrine and thus place it out of touch with technological and economic needs.

As the first treatise on aviation accident law, this volume, by providing handy reference to decisions, statutes, and conventions, makes an important contribution to legal thought in aviation. As Senator McCarran, a leading legislative figure in the aviation world, remarks in the foreword,¹ "... while many cases must yet be decided to develop aviation accident law to the status of the law applicable to older modes of transportation, the author has given lawyers an invaluable tool with which to work in developing this field of aviation law."

HAROLD F. McNIECE*

PROBLEMS IN PROBATE LAW, INCLUDING A MODEL PROBATE CODE. By The Model Probate Committee of the American Bar Association. Chicago: Callaghan and Co., 1946. Pp. li, 756, index. \$10.00.

The title of this book indicates the method of its compilation and the effort and learning which has been spent upon the undertaking. Clearly, this work was done in a spirit of altruism, as a public service, and not for private gain.

The book is not a *necessary* tool in the working library of the average practicing attorney. It makes no pretense in that direction. But for the student, lawyer, or legislator interested in probate work, and the improvement of probate systems, the publication should prove of value and inspiration.

In recent years, many of the states have revised their probate codes and other states are seeking to improve their methods of administering estates of decedents. Recognizing these facts, the authors of the "Model Probate Code" speak of their handiwork as follows:^{1a}

"This is a model code, not a uniform act. Its objective is not the attainment of uniformity among the several states, but the improvement of probate procedure wherever revision of probate legislation is sought. Primarily, it is intended as a reservoir of ideas, and of acceptable legislative formulations of those ideas, from which legislative committees may draw the framework of new probate codes."

The draftsmen of the "Model Probate Code" have incorporated therein, so far as is germane, all or parts of the Uniform or Model Acts prepared by

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¹ P. X.

^{1a} P. 10.